

SUBCHAPTER B : LICENSING PROCEDURES

§340.31. License Required.

It shall be unlawful for any person to act as, or to offer to perform services as a driller for a water well, injection well, dewatering well, or monitoring well or a pump installer without first obtaining a license pursuant to the Texas Water Code and these sections.

Adopted May 8, 1996
Derived from §340.31

Effective June 6, 1996

§340.33. Exceptions.

The following are not required to obtain a license:

- (1) any person who drills, bores, cores, or constructs a water well on his property for his own use;
- (2) any person who assists in the construction of a water well under the direct supervision of a licensed water well driller and is not primarily responsible for the drilling operation;
- (3) any person who possesses a Class A or Class B underground storage tank (UST) installer's license who drills observation wells within the backfill of the original excavation for USTs, including associated piping and pipe trenches (tank plumbing and piping), to a depth of no more than two feet below the tank bottom. However, if the total depth exceeds 20 feet below ground surface, a licensed driller is required to drill the well;
- (4) any person who drills environmental hand auger soil borings no more than 10 feet in depth;
- (5) any person who installs or repairs water well pumps and equipment on his own property, or on property that he has leased or rented, for his own use;
- (6) any person who assists in the procedure of pump installation under the direct supervision of a licensed installer and who is not primarily responsible for the installation;
- (7) any person who is a ranch or farm employee whose general duties include installing or repairing a water well pump or equipment on his employer's property for his employer's use, but who is not employed or in the business of installation or repair of water pumps or equipment;
or

(8) any registered water well driller trainees and pump installer apprentices.

Adopted May 8, 1996
Derived from §340.33

Effective June 6, 1996

§340.35. Requirements for Issuance of a License.

(a) An application, accompanied by the required examination fee, must be submitted by each person desiring to obtain a water well driller's or pump installer's license.

(b) Each applicant shall have been a resident of the state for not less than 90 days before applying for a license unless this requirement is waived by the executive director under §340.39(c) of this title (relating to Establishing Texas Residency).

(c) Each applicant's qualifications must be certified by the executive director before the examination.

(d) Within 90 days after certification, each applicant must successfully pass an examination prepared by the executive director.

(e) Upon passing the examination, an applicant must submit the required license fee to the commission.

Adopted May 8, 1996
Derived from §340.35

Effective June 6, 1996

§340.37. Applications for Licenses and Renewals.

(a) Applications shall be made on forms which may be obtained from the commission.

(b) Applications shall include:

(1) the applicant's name, business address, and permanent mailing address;

(2) a sworn and satisfactory letter of reference from a licensed water well driller or pump installer, as applicable, with at least two year's licensed experience in water well drilling/pump installing;

(3) satisfactory letters of reference from:

(A) the applicant's banker; and

(B) two satisfied water well drilling or pump installer customers, as applicable, who are not related within the second degree of consanguinity to the applicant (i.e., may not be the

applicant's spouse, or related to the applicant or applicant's spouse, as a child, grandchild, parent, sister, brother, or grandparent);

(4) the applicant's sworn statement that he has drilled water wells or installed pumps under the supervision of a driller or pump installer licensed under the Texas Water Code for two years or that he has other comparable water well drilling or pump installing experience; and

(5) the applicant's sworn statement that he has read the commission's standards of conduct.

(c) The application must be received by the executive director at least 28 days before a council's meeting in order to be scheduled for consideration at the meeting. The commission will send written notice to the applicant by certified mail. The notice shall inform the applicant that the application is administratively complete and accepted for filing, or that the application is deficient in specific areas and the applicant has 30 days to submit additional information to correct the deficiencies. If the additional information is received within 30 days of receipt of the deficiency notice, the executive director will evaluate the information and, where applicable, shall prepare a statement of receipt of the application and declaration of administrative completeness under §281.17 of this title (relating to Notice of Receipt of Application and Declaration of Administrative Completeness). If the required information is not forthcoming from the applicant within 30 days of the date of receipt of the deficiency notice, the staff shall return the incomplete application to the applicant. If the applicant disagrees that the application is deficient, the applicant may file a motion for reconsideration of the executive director's action under §50.39 of this title (relating to Motion for Reconsideration).

(d) An application shall be null and void if the examination is not taken within 90 days after the executive director's certification of the application.

Adopted May 8, 1996
Derived from §340.37

Effective June 6, 1996

§340.39. Establishing Texas Residency.

(a) Except as provided in subsection (c) of this section, an applicant must provide a sworn statement indicating that he has been physically present in the State of Texas, with the intent of making Texas his permanent home, for at least 90 days before submitting an application for a license.

(b) If the executive director deems it necessary, an applicant must provide tangible proof establishing his status as a Texas resident.

(c) The executive director may waive the residency requirement set out in subsection (a) of this section for any applicant who holds a valid current license or registration issued by proper authority of any other state of the United States if the licensing standard is not lower than that established by the commission and if that state extends similar privileges to Texas drillers or pump installers licensed by the commission.

(d) The commission shall maintain a list of all other states which have licensing requirements substantially equivalent to those of Texas and which extend reciprocity to Texas drillers licensed by the commission.

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Effective June 6, 1996

§340.41. Examination Fee.

(a) A \$100 examination fee must accompany each application.

(b) Each time an applicant applies to retake the commission's examination, an applicant must submit the examination fee.

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Derived from §340.41

Effective June 6, 1996

§340.43. Certification by the Executive Director.

(a) The executive director, with advice of the council, shall review and pass upon each applicant's qualifications.

(b) In assessing an applicant's qualifications, the executive director and the council shall examine the letters of reference submitted, the applicant's experience and competence in water well drilling or pump installing and related fields, residency status, and any other relevant information which may be presented including, but not limited to, compliance history.

(c) An applicant, at the discretion of the executive director, may not be certified for up to a one-year period following a finding by the commission or a court of competent jurisdiction which resulted in the revocation of the applicant's license or a finding that the applicant operated without a license in violation of Texas Water Code, §32.002 and/or §33.002 and/or §340.31 of this title (relating to License Required).

(d) After assessing the qualifications of an applicant, the executive director, with advice of the council, shall determine the type(s) of well drilling or pump installation, if any, it finds the applicant competent to perform. Types of drilling include water well, monitoring well, injection well, and dewatering well. Types of pump installation include: windmills, hand pumps, and pump jacks; fractional to five horsepower; submersible five horsepower and over; and line-shaft turbine pumps. An applicant who has demonstrated competency in water well drilling shall be deemed qualified for licensing for all other types of drilling. An applicant who has demonstrated competency in all types of pump installation shall be deemed qualified for a master pump installer's license.

(e) A licensee, not licensed to perform all types of well drilling and pump installation, may apply for designation for additional types of well drilling or pump installation. Applications for

additional designations shall be accompanied by the appropriate application fee and shall contain all information required by this subchapter for an initial license, except information regarding residency and letters of reference from the applicant's banker. Upon examination of the applicant's qualifications, the executive director, with advice of the council, shall make his recommendation on the application.

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Effective June 6, 1996

§340.45. Disposition of Application.

The executive director shall mail notice to each applicant as to the disposition of his or her application within ten days of the final decision. An applicant who disagrees with the executive director's final decision may file a motion for reconsideration under §50.39 of this title (relating to Motion for Reconsideration).

Adopted May 8, 1996
Derived from §340.45

Effective June 6, 1996

§340.49. Examinations.

(a) Examinations shall be designed to determine if the applicant possesses the requisite knowledge of pump installation techniques; well drilling, completion, and plugging methods and techniques; and of groundwater formations to ensure that the licensee will not present a serious risk of pollution of a groundwater source.

(b) Examinations shall be written except that upon petition of an applicant filed with the commission not less than 30 days prior to the scheduled date of the examination, the examination shall be administered orally. The commission will administer its licensing examinations in a manner that prevents any unlawful discrimination and that is compliant with the Americans with Disabilities Act of 1990, Public Law 101-336.

(c) Examinations shall be offered on a regular basis by the commission at a time and place designated by the executive director.

(d) Additional examinations shall be offered if more than ten applicants petition the commission in writing.

(e) An applicant may take the examination only twice within any 12-month period.

Adopted May 8, 1996
Derived from §340.49

Effective June 6, 1996

§340.51. Licenses.

(a) Upon successfully completing an examination and upon the submission of a \$100 license fee to the commission the board shall cause to be issued to the applicant a water well driller's license.

(b) A license shall not be transferable or assignable.

(c) A duplicate license to replace a lost or destroyed license shall be issued by the commission upon application and payment of a \$10 fee.

(d) All licenses issued shall expire on August 31 of each year.

(e) Each license shall bear one or more of the following designations to identify the type of well drilling or pump installing for which the license has been issued:

- (1) W for water well drilling;
- (2) M for monitoring well drilling;
- (3) N for injection well drilling;
- (4) D for dewatering well drilling;
- (5) L for windmills, hand pumps, and pump jacks;
- (6) P for pump installation, domestic fractional to five horsepower;
- (7) K for pump installation submersible five horsepower and over;
- (8) T for line-shaft turbine pumps; and
- (9) I for master pump installer license.

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Derived from §340.51

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§340.53. License Renewal.

(a) On or before the expiration date of the license, the licensee shall pay to the commission a \$125 or, for combination water well driller and pump installer licenses, a \$175 renewal fee and submit an application for renewal.

(b) If a person's license has been expired 90 days or less, the person may renew the license by paying to the commission the required renewal fee and a late fee equal to one-half the examination fee (\$50).

(c) If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying all renewal fees and a late fee that is equal to the examination fee (\$100).

(d) If a person's license has been expired for two years or more, the person may not renew the license; the person may obtain a new license by submitting to reexamination and complying with all requirements and procedures for obtaining an original license.

(e) When a licensee has made timely and sufficient application for the renewal of a license, the existing license does not expire until action on the application has been finally determined by the commission, and in case the application is denied or the terms of the new license limited, until the last day for seeking review of the commission order or a later date fixed by order of the reviewing court.

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Derivation Table
Chapter 340 - Licensing Requirements and Complaint Procedures for Water Well Drillers and
Pump Installers
Subchapter B : Licensing Procedures

This table is to be used to track sections during and after rule revisions. The column on the left lists the current sections prior to the revision. The column on the right lists where the section is proposed to be in the final adoption.

New Section	Old Section
340.31	340.31
340.33	340.33
340.35	340.35
340.37	340.37
340.39	340.39
340.41	340.41
340.43	340.43
340.45	340.45
340.49	340.49
340.51	340.51
340.53	340.53